

HOUSE BILL No. 1649

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-12-76; IC 35-43-5.

Synopsis: Proprietary education. Provides that a religious institution that has a religious or theological education program is not a postsecondary proprietary educational institution. Gives the commission on proprietary education power to investigate institutions that may be under the commission's jurisdiction, and requires the commission to disseminate information to the public concerning entities that award false academic credentials. Provides that granting or using a false academic credential is deception, a Class A misdemeanor.

Effective: July 1, 2007.

Porter

January 23, 2007, read first time and referred to Committee on Education.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1649

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-12-76-9, AS ADDED BY P.L.1-2005,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 9. As used in this chapter, "postsecondary
4 proprietary educational institution" means a person doing business in
5 Indiana by offering to the public for a tuition, fee, or charge,
6 instructional or educational services or training in any technical,
7 professional, mechanical, business, or industrial occupation, either in
8 the recipient's home, at a designated location, ~~or~~ by mail, **or over the**
9 **Internet**. The term does not include the following:
10 (1) An educational institution established by law and financed in
11 whole or part by public funds.
12 (2) A postsecondary proprietary educational institution approved
13 or regulated by any other state regulatory board, agency, or
14 commission.
15 (3) An elementary or secondary school attended by students in
16 kindergarten or grades 1 through 12, supported in whole or in part
17 by private tuition payments. These elementary and secondary



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schools are expressly excluded from this chapter.

(4) Any educational institution or educational training that:

(A) is maintained or given by an employer or a group of employers, without charge, for employees or for individuals the employer anticipates employing;

(B) is maintained or given by a labor organization, without charge, for its members or apprentices;

(C) offers exclusively instruction that is clearly self-improvement, motivational, or avocational in intent (including, but not limited to, instruction in dance, music, self-defense, and private tutoring); or

(D) is a Montessori or nursery school.

(5) A privately endowed two (2) or four (4) year degree granting institution, regionally accredited, whose principal campus is located in Indiana.

(6) A religious institution with education programs that have solely religious or theological objectives that are represented in an accurate manner in the institution's catalogs and other official publications.

SECTION 2. IC 20-12-76-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 13.5 (a) The board may:**

(1) investigate any entity that the board reasonably considers to be subject to this chapter, including site inspections and record examinations, and provide the results of an investigation to the attorney general for further action; or

(2) request the attorney general to conduct an investigation of any entity that the board reasonably considers to be subject to this chapter.

(b) The board shall disseminate to the public information concerning entities that sell or award false academic credentials (as defined in IC 35-43-5-1), including descriptions of the practices of the entities and how to recognize a deceptive practice.

SECTION 3. IC 20-12-76-30, AS ADDED BY P.L.1-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. A person may not do the following:**

(1) Make, or cause to be made, a statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading.

(2) Promise or guarantee employment to a student or prospective

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student using information, training, or skill purported to be provided or otherwise enhanced by a course, unless the person offers the student or prospective student a bona fide contract of employment agreeing to employ the student or prospective student for a period of not less than ninety (90) days in a business or other enterprise regularly conducted by the person in which that information, training, or skill is a normal condition of employment.

(3) Do an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation.

(4) Advertise, grant, sell, or offer to grant or sell, a false academic credential (as defined in IC 35-43-5-1) in Indiana.

SECTION 4. IC 35-43-5-1, AS AMENDED BY P.L.181-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or electronically, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and

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(2) in return for the insertion or deposit of a coin, bill, or token automatically:

(A) to offer, provide, or assist in providing; or

(B) to permit the acquisition of;
some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Drug or alcohol screening test" means a test that:

(1) is used to determine the presence or use of alcohol, a controlled substance, or a drug in a person's bodily substance; and

(2) is administered in the course of monitoring a person who is:

(A) incarcerated in a prison or jail;

(B) placed in a community corrections program;

(C) on probation or parole;

(D) participating in a court ordered alcohol or drug treatment program; or

(E) on court ordered pretrial release.

(h) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(i) "False academic credential" means a document that:

(1) provides evidence or demonstrates completion of an academic or a professional course of instruction beyond secondary school that results in the attainment of an academic certificate, degree, or rank; and

(2) either:

(A) is not issued by an approved institution of higher learning (as defined in IC 20-12-21-3); or

(B) is issued to a student who has not successfully completed a course of study.

The term includes academic certificates, degrees, course work, degree credits, transcripts, or certifications of completion. The term does not include honorary credentials that are clearly designated as honorary on the front of the diploma or certificate.

(j) "Grant" means to award, bestow, confer, convey, sell, or give.

(k) "Identifying information" means information that identifies

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an individual, including an individual's:

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value;

or

(B) initiate a transfer of funds.

~~(j)~~ **(l)** "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-1-27).

(3) A written agreement entered into under IC 27-1-25.

~~(k)~~ **(m)** "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term also includes the following:

(1) A reinsurer.

(2) A purported insurer or reinsurer.

(3) A broker.

(4) An agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker.

(5) A health maintenance organization.

(6) A limited service health maintenance organization.

~~(h)~~ **(n)** "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

~~(m)~~ **(o)** "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

~~(n)~~ **(p)** "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

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(q) "Offer" means to advertise, publicize, or solicit.

(r) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes township assistance, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(s) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(t) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(u) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(v) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 5. IC 35-43-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person who:

(1) being an officer, manager, or other person participating in the direction of a credit institution, knowingly or intentionally receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent;

(2) knowingly or intentionally makes a false or misleading written statement with intent to obtain property, employment, or an educational opportunity;

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(3) misapplies entrusted property, property of a governmental entity, or property of a credit institution in a manner that the person knows is unlawful or that the person knows involves substantial risk of loss or detriment to either the owner of the property or to a person for whose benefit the property was entrusted;

(4) knowingly or intentionally, in the regular course of business, either:

(A) uses or possesses for use a false weight or measure or other device for falsely determining or recording the quality or quantity of any commodity; or

(B) sells, offers, or displays for sale or delivers less than the represented quality or quantity of any commodity;

(5) with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service, avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service;

(6) with intent to defraud, misrepresents the identity of the person or another person or the identity or quality of property;

(7) with intent to defraud an owner of a coin machine, deposits a slug in that machine;

(8) with intent to enable the person or another person to deposit a slug in a coin machine, makes, possesses, or disposes of a slug;

(9) disseminates to the public an advertisement that the person knows is false, misleading, or deceptive, with intent to promote the purchase or sale of property or the acceptance of employment;

(10) with intent to defraud, misrepresents a person as being a physician licensed under IC 25-22.5; or

(11) knowingly and intentionally defrauds another person furnishing cable TV service by avoiding paying compensation for that service by any scheme or device or by tampering with facilities or equipment of the person furnishing the service;

(12) knowingly or intentionally:

(A) grants or offers to grant a false academic credential;

(B) represents falsely that a credit earned or granted by the person can be applied toward a credential offered by another institution;

(C) grants or offers to grant a credit for which a representation described in clause (B) is made; or

(D) solicits another person to seek a false academic credential or earn a credit described in clause (B); or

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(13) knowingly or intentionally uses a false academic credential or falsely claims to have a credential granted by an approved institution of higher learning (as defined in IC 20-12-21-3):

(A) in an advertisement or other promotion of a business;
or

(B) to obtain:

(i) employment;

(ii) a license or certificate to practice a trade, a profession, or an occupation;

(iii) a promotion, compensation or an increase in compensation, or other benefit in employment or in the practice of a trade, a profession, or an occupation;

(iv) admission to an educational program in Indiana; or

(v) a position in government with authority over others, regardless of whether the person receives compensation for the position;

commits deception, a Class A misdemeanor.

(b) In determining whether an advertisement is false, misleading, or deceptive under subsection (a)(9), there shall be considered, among other things, not only representations contained or suggested in the advertisement, by whatever means, including device or sound, but also the extent to which the advertisement fails to reveal material facts in the light of the representations.

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